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June 28, 2012

Director Douglas W. Elmendorf
Congressional Budget Office
Ford House Office Building, 4th Floor
Second and D Streets, SW
Washington, DC 20515-6925

Dear Dr. Elmendorf:

Following the Supreme Court's decision today on the Patient Protection and Affordable Care Act (PPACA), it is critical that the Congressional Budget Office (CBO) reexamine the budgetary impact of this law and report to Congress. As you know, Congress is currently engaged in attempting to prevent the "fiscal cliff" that is coming at the end of the year – not only does the country risk further downgrades if we cannot get our deficits and debt in order, but we are poised to experience a massive tax hike combined with drastic and untargeted spending cuts, at the same time our social safety net is being stretched beyond its limit.

If Congress is to repair the nation's budget, it is necessary that we have an accurate, realistic perception of the budgetary effects of recently passed legislation, especially a law of the size and scope of PPACA. Aside from the magnitude of the changes that will take place based on the Supreme Court's decision today, a number of other major changes have ensued since CBO originally estimated the impacts of PPACA. Additionally, CBO's original score was problematic in a number of areas.

As such, I request that CBO develop a new score for PPACA, taking the following issues into account, and explaining what, if any, changes to the original score these additional issues have caused:

- 1) The Supreme Court has made the Medicaid expansion voluntary; this places the source of insurance for 17-20 million people into question. If this Medicaid expansion is now truly voluntary for states, and a large portion of these individuals will receive private coverage through the Exchange, this could increase costs to the federal government because those individuals may be made eligible for the maximum subsidy available.
- 2) The Administration – on its own – already determined that the long term care and supports program known as the "CLASS Act" was unworkable and unable to achieve financial solvency. CBO counted \$86 billion in premiums going into the system as "revenue", even though the program was set up to collect premiums for five years before any payouts. Now that the Administration has unilaterally announced that it will not implement this program,

and CBO has announced that it will not assign a budgetary impact to repealing this program, this should alter the score.

- 3) Recent surveys have shown that many more employers than previously estimated by CBO may consider dropping coverage. This could place millions more Americans into exchanges, making them eligible for federal subsidies.
- 4) CBO's estimate assumed that plans would be required to cover a short list of services. However, the Administration is moving forward with designing a comprehensive set of "essential health benefits". This will make exchange plans more expensive, which will consequently increase premium subsidy costs.
- 5) The Administration has issued thousands of waivers and exceptions to the rules prescribed in the law. For example, some of these waiver prevented implementation of the medical loss ratio in various states, and others paved the way for certain limited benefit plans to continue operation. This would have a budgetary effect on the law.
- 6) New regulations have not treated parts of the employer mandate, such as the mandate to cover part-time and seasonal workers, or the calculation of a "full-time equivalent" employee in the way CBO initially envisioned, which could increase the costs of the law.
- 7) The Administration, under a perceived broad authority to regulate health insurance included in PPACA, is considering limiting self-insured coverage for small firms, which could lead to fewer businesses offering coverage, and thus higher premium subsidy costs.
- 8) CBO's initial estimates on a number of tax provisions have proven inaccurate. This includes inadequate revenue brought in from provisions such as the tanning tax, as well as negligible new coverage created by the miniscule credit available to small firms to offer health insurance to employees – which the GAO projects will continue.

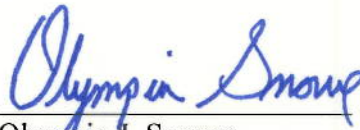
As stated above, there were some issues in the original score that did not make sense or obscured the actual budgetary impact of PPACA. Please take the following issues into account, and explain how or why CBO is or is not altering the score based on these specifics:

- 1) The bill was designed so that CBO would give a ten year score for only five years of full implementation of the law. In the very least CBO should update the score to show years 2013-2023, although a better estimate would start at 2014 or later.
- 2) The initial CBO score double counted the \$500 billion cut to Medicare as both paying for Medicare and paying for new programs at the same time. This should either be broken out in a way that makes better sense to members, or discontinued and a more clear scoring used for these impacts.
- 3) Despite the Administration's claims that the law improves Medicare's solvency, it fails to account for the continuing practice of "patching" the Sustainable Growth Rate formula to prevent physician payments from being reduced by 30% or more. Current estimates are that Congress will spend an additional \$200 to \$375 billion in the next ten years to prevent these cuts. CBO should include assumptions akin to more realistic budgetary scenarios to make this clear.

- 4) The Chief Medicare Actuary stated that cuts to Medicare payment rates prescribed in the law are "unsustainable" and would lead to many providers no longer treating Medicare and Medicaid patients. These cuts realistically cannot be implemented without severely damaging these programs. The score should instead project realistic savings, and disregard unrealistic "savings" that would destabilize critical safety net programs.

Thank you for your cooperation and attention to this matter. We would appreciate a response by July 28, 2012. Please contact James Gelfand on Ranking Member Snowe's staff at 202-224-7884 with any questions.

Sincerely,



Olympia J. Snowe
Ranking Member
Senate Committee on Small Business and
Entrepreneurship